

A DURABLE FREE SOCIETY: UTOPIAN DREAM OR REALISTIC GOAL?

by Arthur Shenfield

Arthur Shenfield was the Ludwig von Mises Distinguished Visiting Professor of Economics at Hillsdale College for the fall semester of 1982. He has previously held visiting professorships at the University of Chicago, Temple University, University of California-Davis, University of Dallas, University of San Diego, Colorado School of Mines, and Rockford College.

Dr. Shenfield has been economic director of the Confederation of British Industry, director of the International Institute for Economic Research and president of the Mont Pelerin Society. He has also served as an economic adviser to the government of Trinidad, chairman of the government commission of the cotton industry of Uganda, and chairman of the group of fiscal experts of the Business and Industry Commission of the Organization for Economic Cooperation and Development.

Dr. Shenfield delivered this presentation at Hillsdale on December 2, 1982, as part of the Ludwig von Mises Lecture Series.



Our question, some may say, is easily answered. Are not Americans free? Have they not been free ever since some of their ancestors staked their lives and sacred honor on freedom two centuries ago?

Hence is not the answer clearly that the free society is a realistic goal, since it already exists in America, and in a form which has demonstrated its durability?

Without doubt Americans regard themselves as a free people. But how well does their society fit the prescription of freedom? Their Founding Fathers had an accurate understanding of it. In a free society there would be a government of laws, not of men. The laws themselves would be subject to the rule of law, and so too would be the power of government.

The power of those vested with legal authority would be strictly limited, and the essential purpose of their

authority would be the defense of the life, liberty, and property of the people against external enemies and internal force and fraud.

Whatever the people wished to do outside the lawfully limited purview of government, they might do without requiring the leave or license of government.

Thus the prescription envisaged a framework of law within which the people would do what they wished, go their own way, and make their own choices. Internally the law would intervene primarily only to prevent the people from impinging upon each other's rightful liberty. From this prescription certain principles arise by implication.

Four Principles of American Freedom

First, the state is not society. Society and the state are two different entities, even though their members may

im•pri•mis (im-pry-mis) adv. In the first place. Middle English, from Latin *in primis*, among the first (things)....

Imprimis is the journal of Hillsdale's two outreach programs seeking to foster clear thinking on the problems of our time: the Center for Constructive Alternatives in Michigan, and the Shavano Institute for National Leadership in Colorado. A subscription is free on request.

be the same and even though they may intermesh with each other intimately. The state is the entity charged with the task of protecting society, but the society overflows the bounds of the state into fields where the state has no right to go. A society cannot be free if it is synonymous with the state. For if it were, all human activity would not only be governed by law. It would also be prescribed and licensed by law, which is the meaning of totalitarianism.

Secondly, liberty is a negative, not a positive, concept. It has been a sad misfortune that a few not undistinguished thinkers have espoused the positive concept, because they have thus induced demagogues to bemuse the people with nostrums such as "freedom from want." The negative concept teaches us that liberty is freedom from coercion, not power over desires or desired resources. It includes the freedom to seek the satisfaction of one's wants, subject to the like freedom of others, but not the power to command that satisfaction.

It follows that freedom and welfare are separate, and may be opposing, conditions. In a free society it is hoped, with great practical and historical justification, that freedom will be the fountain of men's welfare, and welfare is therefore sought through freedom. As a general rule welfare may not be sought by state action which offers itself as benevolent and compassionate, for that means the intrusion of the state upon the people's freedom. Such positive state efforts to produce welfare may not be absolutely forbidden in all conceivable cases, for human affairs have their fuzzy edges and their exceptional circumstances; but they are to be regarded with the utmost suspicion and permitted only after skeptical, even hostile, scrutiny.

Thirdly, the only form of equality which may be sought by the state is equality before the law. With equality before the law, the goddess of justice is rightly depicted as blind as she holds the scales evenly; blind because she is no respecter of persons. To her all, rich or poor, strong or weak, high or low, come for equal protection.

Per contra, the state pursuit of equality of income or wealth is poison to justice and freedom. So too is equality of opportunity if that means, as unfortunately it has increasingly come to mean, that life's races must be fixed so that all start equal.

Equality of bargaining power among the people is also an impermissible aim of state action or policy. Certainly individuals or groups may, subject to law, make arrangements to seek or promote equality of bargaining power. But the state may not endow such arrangements or their promoters with legal privileges or other special aid, for if it does it will find that it has improperly delegated some of its own proper monopoly of force to those promoters. In numerous countries trade unionism has been turned into an anti-social monster by such improper delegation.

Notice that though the free society does not seek equality of opportunity, it does produce abundance of opportunity; and in that abundance there is a closer approach to equality of opportunity than is known in any unfree society.

It follows that, though even the modest taxation of the limited state may have some incidental income-redistributive effect, the deliberate pursuit of redistribution of incomes or wealth by the state is absolutely impermissible. It is par excellence the mark of the robber state, all the worse when it presents itself as the expression of compassion or human brotherhood.

Fourthly, the state may not command, direct, control or regulate the economic activity of the people, except where it can be convincingly shown that such a measure is an essential means of preventing the people from encroaching upon each other's liberty or rightful property.

Gone like the Cheshire Cat?

How does modern America measure up to this prescription and its implications? Obviously not well. A society where in peacetime government in its various forms takes some 40 percent of the Gross National Product, is clearly close to a failing grade. If it has an immense apparatus of state welfare, and pursues or tolerates the deliberate redistribution of incomes or wealth, it has moved far away from some of the basic requirements of the prescription of liberty. Still more, if the state regulates or controls a broad spectrum of economic activity, the people have *pari passu* lost a correspondingly broad measure of their fundamental liberty, and the free society becomes more and more like the Cheshire cat, still displaying its original grin but showing less and less of its original body.

After the eloquent exordium of the Declaration of Independence there follows a long list of complaints against the alleged misdeeds of King George III. The tenth complaint declares "He has erected a multitude of new offices, and sent hither swarms of officers to harass our people and eat out their substance."

In 1776 there were fewer than three million people in the thirteen colonies. There are now over 220 million in the United States. Yet I would wager with confidence that even when measured per thousand of the population, King George's offices and officers, harassing the people and eating out their substance, were far fewer than those of the modern ICC, CAB, FCC, FMC, FPC, FTC, FDA, SEC, EPA, OSHA, CPSC, NHTSA, IRS, and the Departments of Health and Human Services, Housing and Urban Development, Energy, and Education, plus the regulatory and other commissions of the fifty States.

Does it make a difference that these authorities are established by the people's elected representatives, who may dismantle them at will, whereas King George was a

distant autocrat not subject to the will or suffrage of the American colonists? Yes, but the difference does not go to the heart of the matter. Tyranny may be autocratic, but it may also be democratic.

The great liberals of the eighteenth and nineteenth centuries were acutely aware of the dangers of democratic or majoritarian tyranny, none more than the American Founding Fathers. Hence they insisted on



limited government, and would have dismissed out of hand the notion that unlimited government would be tolerable if it received the sanction of a majority of the people. Indeed excessive democratic power may be more dangerous than autocratic power, for the people may be lulled into submission by the democratic credentials of the former while they are likely to be on the qui vive against the latter.

Economic and Political Liberties Inseparable

Yet Americans do still feel that they are a free people, and in fact they probably still have more freedom than any other people in the world, except possibly the Swiss. Partly they feel free because they can still elect their rulers, and to this extent their freedom may be in some measure illusory. But mainly they feel free, and

are free, because the main structure of their Constitution still stands, though much of it has been battered out of shape or pockmarked, perhaps not least by its presumed guardian, the Supreme Court. In particular the First Amendment liberties still stand, and a people with those liberties will naturally tend to have a strong sense of the enjoyment of freedom.

Nevertheless Americans concerned for the future of their personal and political freedoms should not assume that they can indefinitely survive the erosion of economic freedom. There is a link between economic freedom and other freedoms. In recent years the American economy, once the most vibrant and vigorous in the world, has acquired an astounding distinction. It has the lowest percentage of capital investment, the lowest rate of productivity growth, and one of the highest percentages of obsolete plants among major industrial countries.

What once made the American worker the number one producer of the world was the amount of capital supporting his effort, plus the leadership of the most spirited, venturesome, and innovative men of enterprise in the world. But in the past decade the amount of productive capital per worker has steadily fallen.

Meanwhile American business is beset by innumerable legal traps, is forced to sink valuable capital into unproductive investment, and must devote precious time and energy to satisfying the requirements of government rather than to economic improvement. To the extent that America is still the world's economic leader, it is because it is living on the splendid legacy of its once free enterprise.

What is likely to happen to American pride and confidence if the country falls below its accustomed number one economic position? Can one believe that loss of pride and confidence in economic success would leave pride and confidence in the political system, even in the Constitution itself, unaffected? That would run counter to all experience and analysis. Loss of national pride and confidence produces a tailor-made situation perhaps for a hero on a white horse, perhaps for the man with the fastest gun, or perhaps for the demagogue with the most silvery tongue. Any one of these would be fatal to the American Constitution and the liberties which it protects.

Thus we must conclude that if we cannot base a positive answer to the question whether a durable free society is a realistic goal on the present state of America, neither can we do so on the whole experience of America. Further elucidation is necessary. Before we proceed to such elucidation, let us turn our attention to the dreams of utopians.

Utopians and Barbarians

That distinguished American poet, Robert Frost, has told us that the opposite of civilization is utopianism, not

barbarism. How so? Because the barbarian lurks behind the utopian, who opens the gate to let the barbarian in upon us. Alternatively the utopian may himself in a different mood be a barbarian, a utopian Dr. Jekyll and a barbarian Mr. Hyde.

Utopians come in a wide range of qualities. Great men like Sir Thomas More and Sir Francis Bacon, intellectual pygmies like Edward Bellamy, William Morris and Charles Fourier, and numerous others like Samuel Butler and Aldous Huxley in between. And Karl Marx.

Can that be right? Surely Marx expressed the utmost contempt for the utopian socialists, and made a tremendous point about the scientific character of his socialism. So he did. But his purportedly scientific work, which was in fact a parody of science or worse, led him to the ultimate in utopianism, namely the withering away of the state and the end of all history.

In dealing with the alleged problem of alienation, Marx had already reached a high peak of utopianism when he declared that in the socialist paradise it would be "possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, rear cattle in the evening, criticize after dinner, just as I have a mind, without ever becoming hunter, fisherman, shepherd or critic." In short, with a wave of his wand Marx repealed the division of labor, which is in fact the foundation of economic progress.

All utopians, whether of elevated or debased character or intellect, offer us only distraction and confusion. Their daydreams solve all human problems, but only in dream worlds, leaving us to grapple with the real problems of the human condition in the real world. Their dream world people are not human beings, but cardboard characters; and their physical or natural environments are not those of our Earth, with the constraints we have had to face since the dawn of our species, but of some planet or heavenly body which the good Lord has not yet created.

All socialists are utopians in some measure or other. They propose a powerful state, but their powerful state will be caring, compassionate, benevolent. It will be incorruptible, efficient, far-seeing, progressive and adaptable. Its politicians will think only of the public welfare, and its bureaucrats will think only of service to the people. The rule of law will prevail, and yet the government will have a wide discretion, so that it may do the utmost good. The government will control all essential sources of livelihood; yet criticism will be free and, *mirabile dictu*, also effective.

How does the utopian open the gate to let the barbarian in upon us? This is demonstrated in the history both of socialism and of anarchism. When a socialist enters into office, he comes face to face with the realities of power. If he is the true and chosen friend and champion of the people, his critics, who harp upon the

shortfall between his promise and performance, must be the enemies of the people. If his power is unlimited, it therefore behooves him in the interest of the people to liquidate his critics; or if he recoils from such action, he himself will be liquidated by some rival with less tender sensibilities. The results are the horrors and barbarisms of the totalitarian society.

Most of the anarchists who made a big noise in the nineteenth and early twentieth centuries were also intoxicated utopians. They offered men a brave new world without governments to oppress them. But most men rejected their beautiful prescriptions. Hence, they reasoned, they were the dupes of wicked governments. Therefore the rulers, and if necessary the people, had to be gunned and bombed into submission. Enter once more the barbarian.

Realism of the Founders

Look now at the men who laid the foundations of the free society—Locke, Hume, Smith, Burke, and especially Madison and his fellow realists at the 1787 Constitutional Convention. There was not a whiff of utopianism in all of them put together. Their feet were always firmly planted on the ground. They knew what men were like, good and bad, and all they wrote and prescribed was based on reality. When it came to government, they knew that the watchword was to beware of the bad in men, not to rely upon the good. Madison said it all in "If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary."

But wait. Let me now don the wig and gown of a devil's advocate. Is it possible that we who aim to don the mantle of the founders of the free society, from Locke to Madison, are also utopians?

Consider our prescription for the free society. We are not anarchists. We prescribe a government, strong and firm, though limited, constitutional and subject to the rule of law. Such a government must have power. That power is supposed to be used impartially for the general interest only, but can we expect men to refrain from seeking to use it for private or sectional interests?

Look at the story of two centuries of sectional interests at work in the United States. Right at the beginning Hamilton, despite his immense intelligence and practical ability, set about erecting a protectionist wall for manufacture, under the influence of what economists later called the infant industry argument. If the argument had had substance, manufacturing could never have established itself in Ohio, Michigan, Illinois or California against the entrenched industry of the Northeast. For all its ups and downs in two centuries, the protective tariff has been the most persistent cause of the triumph of sectional interests over the general interest in the American experience.

Then there has been the pork barrel. Though for a long time it was mainly a localized matter, and thus a minor burden on a free, vigorous, and enterprising people, it became much more serious once people were persuaded to look to the federal government for the solution of most of their problems, and to invest it with great and increasing power. For every state in the Union was in fair measure a sectional interest vis-à-vis the federal power, and hence every senator and congressman gained popularity by bringing a fair share, or better still, more than a fair share, of the federal bacon home for the benefit of his state or district.

Regulatory Wolves

Much more important than the regular kind of pork barrel has been the phenomenon of regulation. From the Interstate Commerce Commission, the grand-daddy of them all, to the latest regulatory commission, regulation has been for the most part a case of sectional interest masquerading as the general interest. However, in a few cases, applied mildly and with circumspection, it may be truly in line with the general interest. Where in the world is there a nation so wise, so perceptive, so gifted with insight and analytical capacity, as to be able to see when there is a wolf in the regulatory sheep's clothing and when there is not?

Then there is the malady which typically afflicts democracy itself. The Founding Fathers, like their spiritual mentors of the Enlightenment, were not democrats. But the system which they produced inevitably became the womb of democracy, and is normally extolled for that very reason. We know that a democratic society can remain substantially free for a long time; witness America. But we also know that a democracy is always powerfully tempted to expropriate the rich for the supposed benefit of the poor, which is the beginning of the end of the free society. Is it realistic or is it utopian to hope that democracy can be purged of this destructive tendency?

Consider the fact that more than two centuries of the development of economics, probably the only social science with firm foundations, finds the general public and most of their rulers illiterate in economic matters. Take the case of minimum wage legislation or of rent controls. The evils produced by these devices are of the simplest character to apprehend. Yet they persist, partly under the influence of the sectional interests which profit from them, and partly from sheer blindness to the obvious.

Ideas Make Freedom Durable

Clearly the devil's advocate has a case, and a strong one, but not, I believe, an irrefutable one. Despite all that I have adduced to the contrary, I believe that a durable free society is a realistic goal. I am persuaded by the following considerations.

It is a mistake to think that the tariff, and the pork barrel in its various forms, could by themselves make more than a dent in the freedom of American society. For more than a century they were features of the American scene, and yet American freedom and success remained firm.

For more than a century Tammany Hall ruled, or misruled, New York City primarily for the benefit of its politicians, not of the citizens. Yet at no time during the era of Tammany government did New York City come close to bankruptcy, not even in the days of Boss Tweed. The citizens of New York remained free and their enterprises vigorous and successful. It was the welfare, union power, and general weakening of constraints upon public expenditure of post-Tammany times which bankrupted the city.

The lesson is that given a firm ideology of freedom, the citizens may be a prey to some measure of speculation and misgovernment, but still remain essentially exempt from the greater evils of tyranny. Nor do they need to be sophisticated philosophers or economists, as long as that firm ideology is in them.

What has wrought so fundamental a change as to cause a doubt about the durability of American freedom? It is the capture of American intellectuals, and, by seepage, of ordinary citizens, by ideas inimical to freedom and subversive of the original authentic America.

Dr. George Roche has delineated the process of intellectual subversion with clarity in his paper on "The American Collectivist Myth," published as the January 1982 issue of *Imprimis*. Beginning in the late nineteenth century, gradually gathering strength in the early years of this century, and reaching a peak in the ideas of the New Deal, it attained a still higher peak in the style of thought behind the mounting governmental directions, interventions and regulations of recent decades.

It is this which has reduced America to a part-collectivist society. Reverse this process and you restore American freedom to safe sanctuary, even if something like the blemishes of the nineteenth century re-emerges.

Is such reversal a realistic goal? In some measure it must be, because in significant circles it has already been attained.

How many economists of standing under the age of 40 are now Keynesians, or planners, or adherents of wage and price controls, or believers in anything more than minor doses of regulation? Very few. While a generation ago the thrust of economic analysis was directed toward supposed market failure, now it concentrates itself increasingly on real governmental failure. Political scientists mostly still lag behind, but there are clear signs of the beginnings of similar movement among them too. Marvellous to relate, such signs are even visible among some sociologists.

Source of a Laser Beam?

Millions of ordinary Americans already sense that these collectivist policies are fraudulent and bankrupt, while still voting for them in the hope that particular promises of benefits to themselves will be fulfilled.

The world is ruled by ideas, not interests. When men seek to serve their interests, it is what they think their interests are that really moves them, and this is determined by their ideas. However ideas always take time to achieve their effect. This time-lag is one of the most important of social phenomena. When politicians and journalists declare their belief in what they think is the *dernier cri*, it turns out to be an idea that conquered the intellectual world years earlier.

The length of the time-lag varies from case to case, and there is a considerable element of chance in this. But, as Pasteur said, chance comes to the prepared mind. The more that we understand this, accept its inevitability, ensure that our would-be victorious ideas hold intellectual water, and press them home with the confidence which deserves the victory, the shorter will the time-lag be.

Dr. Roche has declared that it is the purpose of Hillsdale's offshoots—the Center for Constructive Alternatives under whose auspices I speak, the Shavano Institute, and the "Counterpoint" television series—to change the nation. If you change the American nation, you go far to change the world.

A preposterous claim, it may be said, to emanate from so small a pinpoint in the intellectual world. Not so. A pinpoint may be the source of a laser beam. It can be, if the goal is realistic, which for reasons set out above I aver it is.

For further reading: This is Arthur Shenfield's sixth appearance in *Imprimis* over the past 11 years. His essays previously published here include: "Consumerism," "An Open Letter to Ian Smith of Rhodesia," "Must We Abolish the State?," "Lessons from the British Experience," and "Capitalism Under the Tests of Ethics."

Books by Dr. Shenfield include: *The Roots of American Discontent, Myth and Reality in Economic Systems, The Rise of Trade Union Power in Britain, and From Campus to Capitol: The Costs of Intellectual Bankruptcy.*

To order any of these items, use the accompanying envelope or write to the Center for Constructive Alternatives, Hillsdale College, Hillsdale, MI 49242.

U.S. Court Upholds Hillsdale's Independence

Can a student be denied a federal grant or loan because he chooses to attend a truly private college that refuses both government aid and government control?

Can a college that has never been accused of race or sex discrimination be threatened with financial penalties to many of its students unless trustees of the college give federal bureaucrats a role in its hiring and enrollment decisions?

Hillsdale College has said no to both questions during a long test of principle with the United States government since 1975.

The college has argued its case before a series of judges, raised a multi-million dollar "freedom fund" to replace the scholarship of every student who might ultimately be denied federal help—and become in the process a symbol of hope to many Americans concerned about steady erosion of the private sector.

The case rose at last just one step short of the highest court in the land. Finally, on December 17, 1982, the U.S. Sixth Circuit Court of Appeals in Cincinnati upheld Hillsdale's stand. The ruling put an end to several years of attempts by the Washington education bureaucracy to cut off federal assistance to several hundred of Hillsdale's 1,000 students.

The Sixth Circuit decision rewarded the unwavering determination of Hillsdale's trustees to seek a judicial or legislative affirmation of private educational rights, rather

than an out-of-court administrative settlement that could later be overturned by bureaucratic whim.

"This rational ruling is a welcome Christmas present for the spunky little college," *The Detroit News* editorialized. Across the country in California, the *Palm Springs Desert Sun* also applauded. Hillsdale "deserves a medal," the *Sun* said.

The Washington Post, in a predictable contrast, grumbled that the ruling "restricts the government's ability to enforce laws against sex discrimination." It did not mention that Hillsdale was one of the first colleges in the country to admit women equally with men, that half the school's enrollment is women, and that sex discrimination has never been alleged against the 139-year-old institution.

Will the case go the final step in an appeal to the U.S. Supreme Court? It could, since the U.S. Third Circuit rendered a contrary ruling in a similar suit earlier last year. But President Roche emphasizes that Hillsdale's stand for principle will continue as long as necessary, including a high court defense if it comes to that.

"Hillsdale College was practicing non-discrimination a hundred years before the government even realized there was a problem," Dr. Roche pointed out. "Private education in this country must continue to go its own way—leading the way for American values."



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